

REMARKS/ARGUMENTS

The Applicant has carefully considered this application in connection with the Examiner's Action and respectfully requests reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicant originally submitted Claims 1-20 in the application. The Applicant has amended Claims 1 and 11. No claims have been added or canceled. Therefore, Claims 1-20 are pending in the application.

I. Rejection of Claims 1-20 under 35 U.S.C. §103

The Examiner has rejected Claims 1-7, 9-17, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,151,149 to Rybicki, et al. (Rybicki), in view of U.S. Patent No. 6,993,483. Claims 6 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rybicki. As the Examiner is no doubt aware, determination of obviousness requires consideration of the invention considered as a whole; the inquiry is not whether each element exists in the prior art, but whether the prior art made obvious the invention as a whole. Furthermore, there must be some suggestion or teaching in the art that would motivate one of ordinary skill in the art to arrive at the claimed invention; a reference that teaches away from a claimed invention strongly indicates nonobviousness.

Moreover, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Rybicki does not teach or suggest that a single element of data can be encoded by a plurality of pulses that exceeds two but is less than about seven distributed in a predetermined manner among each time slot in a group by pulse group keying to encode a single element of data. Milner does not overcome the shortcoming of Rybicki. For a like reason, Rybicki does not teach or suggest the invention described in dependent Claims 6 and 16.

Rybicki, individually or in combination with Milner, fails to teach or suggest the invention recited in independent Claims 1 and 11 and their dependent claims, when considered as a whole. Claims 1-20 are therefore not obvious in view of Rybicki and Milner.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 1-20 under 35 U.S.C. §103(a). The Applicant therefore respectfully requests the Examiner withdraw the rejection.

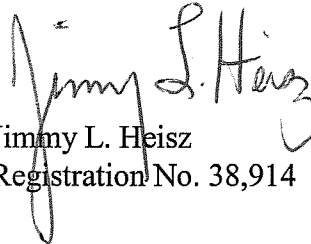
II. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-20.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC


Jimmy L. Heisz
Registration No. 38,914

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P.O. Box 832570
Richardson, Texas 75083
(972) 480-8800